

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PAMELA I. MONTGOMERY,	§
individually and as guardian of	§ No. 77, 2009
THOMAS J. MONTGOMERY,	§
	§
Plaintiffs Below-	§ Court Below—Superior Court
Appellants,	§ of the State of Delaware
	§ in and for Kent County
v.	§ C.A. No. 04C-11-048
	§
MARK ACHENBACH,	§
POYNTER’S TREE FARM AND	§
CHRISTMAS SHOP, INC., and	§
ROBIN ACHENBACH,	§
	§
Defendants Below-	§
Appellees.	§

Submitted: February 18, 2009
Decided: February 20, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 20th day of February 2009, it appears to the Court that:

(1) The plaintiffs-appellants, Pamela I. Montgomery, individually and as guardian of Thomas J. Montgomery, have petitioned this Court, pursuant to Supreme Court Rule 42, to appeal from the Superior Court’s interlocutory ruling on January 23, 2009, which denied their motion for partial summary judgment and granted the motion for summary judgment of

the defendants-appellees, Mark Achenbach, Poynter's Tree Farm and Christmas Shop, Inc., and Robin Achenbach.

(2) On February 10, 2009, the Superior Court refused to certify an interlocutory appeal to this Court pursuant to Rule 42.

(3) Applications for interlocutory review are addressed to the sound discretion of this Court and are granted only in exceptional circumstances.¹ We have examined the Superior Court's January 23, 2009 decision according to the criteria set forth in Rule 42. In the exercise of its discretion, this Court has concluded that such exceptional circumstances as would merit interlocutory review of the decision of the Superior Court do not exist in this case.

NOW, THEREFORE, IT IS ORDERED that the within interlocutory appeal is REFUSED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

¹ Supr. Ct. R. 42(b).